

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA

Plaintiff/Respondent,

v.

RALPH T. O'NEAL III

Defendant/Petitioner.

)
)
)
)
)
)
)
)

No. 3:10-cv-13

MEMORANDUM

This is a petition for the writ of habeas corpus, in which petitioner seeks his removal from federal custody to that of Roane County, Tennessee, in order to answer a capias there. The Clerk is **DIRECTED** to serve a copy of the petition and this Memorandum and accompanying Judgment Order on the United States Attorney. However, for the reasons stated below, the United States Attorney shall not be required to file an answer or other pleading to the petition and this petition will be **DISMISSED**.

On December 17, 2009, petitioner was convicted by a jury in this court of a drug conspiracy; his sentencing is set for June 30, 2010, and he remains in federal custody. *United States v. Ralph T. O'Neal III, et al.*, Criminal Action No. 3:08-cr-107 (E.D. Tenn.). Should a court in Roane County, Tennessee, desire petitioner's presence for whatever reason, the

Roane County court must issue a writ to the U.S. Marshals Service. It is not a matter for this court to consider.

Because it plainly appears from the face of the petition and the annexed exhibits that petitioner is not entitled to any habeas corpus relief in this court, the petition for the writ of habeas corpus is **DISMISSED**. Rule 4 of the Rules Governing Section 2254 Cases In The United States District Courts. The Clerk is **DIRECTED** to notify the petitioner of this Order and to close this file. A certificate of appealability **SHALL NOT ISSUE** in this action. 28 U.S.C. § 2253(c).

In addition to the above, this court has carefully reviewed this case pursuant to 28 U.S.C. § 1915(a) and hereby **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this court hereby **DENIES** the petitioner leave to proceed *in forma pauperis* on appeal. See Rule 24 of the Federal Rules of Appellate Procedure.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas W. Phillips
United States District Judge